

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAROLYN CARNAHAN, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

BIG FISH GAMES, INC., a Washington
Corporation

Defendant.

No. 2:14-cv-01182

DECLARATION OF CHARLES C. SIPOS
IN SUPPORT OF DEFENDANT'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION TO DISMISS
PURSUANT TO RULES 12(b)(6) AND 9(b)

Noted for Consideration: November 14, 2014

I, CHARLES C. SIPOS, declare as follows:

1. I am an attorney with the law offices of Perkins Coie LLP, counsel for Defendant Big Fish Games, Inc. ("Big Fish") in the above-entitled action. I have personal knowledge of the facts herein and if called to testify could testify competently thereto.

2. Attached to this Declaration as Exhibit A are true and correct copies of screenshots reflecting the flow of disclosures made available to customers enrolling in Big Fish's Game Club program. At my direction, these screenshots were copied from Big Fish's publicly accessible website, www.bigfishgames.com, on October 1, 2014.

3. At my direction, a Big Fish account was established temporarily for purposes of generating the materials included in Exhibit A.

DECLARATION OF CHARLES C. SIPOS
(No. No. 2:14-cv-01182) – 1

1 4. Select screenshots included in Exhibit A will be provided to the Court on 11 x 17
2
3 paper in order to approximate the image a customer would view on a standard 19" computer
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5 screen.
6

7 **I declare under penalty of perjury that the foregoing is true**
8 **and correct.**
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10 EXECUTED this 8th day of October, 2014, at Seattle, Washington
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13 /s/ Charles Sipos
14 Charles C. Sipos
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DECLARATION OF CHARLES C. SIPOS
(No. No. 2:14-cv-01182) – 2

64693-0022/LEGAL123599102.2

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

CERTIFICATE OF SERVICE

On October 8, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

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I certify under penalty of perjury that the foregoing is true and correct.

DATED this 8th day of October, 2014.

s/ Abha Khanna
Abha Khanna, WSBA No. 42612
Perkins Coie LLP
1201 Third Avenue, Suite 4900
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Telephone: 206.359.8000
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Attorney for Defendant Big Fish Games, Inc.

DECLARATION OF CHARLES C. SIPOS
(No. No. 2:14-cv-01182) – 3

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

Exhibit A

Exhibit A



Almost done! Please enter your payment info.

Hi PerkinsCoie! Not you?

Billing Address

First name:

Last name:

Country:

Address:

Apt/Suite/Other:

City:

State/Province/Region: Postal code:

Payment method

Payment type:

Card number:

Expires: / Security code:

Place Order



Your Cart

Subtotal: \$ 6.99 USD

IGT Slots Wild Wolf

Game Club Price

~~\$ 9.99~~

\$ 6.99

☒

Big Fish Game Club Free Trial

Save 30% or more on this purchase and get member perks free for 1 month. No commitment, cancel online any time. * See Details

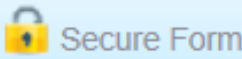
FREE *

Subtotal: \$ 6.99

Tax: \$ 0.00

Total: \$ 6.99 USD

One moment...





Almost done! Please enter your payment info.

Hi PerkinsCoie! Not you?

Billing Address

First name:

Last name:

Country:

Address:

Apt/Suite/Other:

City:

State: Zip:

Payment method

Payment type:

Card number:

Expires: / Security code:

Place Order

By clicking "Place Order", you agree to the [Big Fish Game Club Terms of Service](#), and authorize us to charge the credit card or other payment method you've selected.

You will not be billed for Game Club until your 1 month free trial ends. After your trial, your membership will continue and you will be charged \$ 6.99 (plus applicable taxes) per month. You can cancel any time from your My Account page.

Your Cart

Subtotal: \$ 6.99 USD

IGT Slots Wild Wolf
Game Club Price
\$ 0.99
\$ 6.99

☒ Big Fish Game Club Free Trial
Save 30% or more on this purchase and get member perks free for 1 month. No commitment, cancel online any time. * See Details
FREE *

USD \$

Subtotal: \$ 6.99
Tax: \$ 0.00
Total: \$ 6.99 USD

USD \$ ▼



Processing your order...



Order complete! Thanks for your purchase.

Hi PerkinsCoie! Not you?

Ready to download your game(s)?



Click to activate the full version of your game. If this is your first time downloading a game from Big Fish, our handy Big Fish Games app will install on your computer to help manage your games.

Welcome to your free trial of Big Fish Game Club!



Enjoy it free for 1 month.
Your trial ends: 11/01/14
On that date, we'll bill you for your first monthly membership payment of \$ 6.99 and you'll receive your first Game Club credit to redeem for a game. Visit [My Account](#) for more information.

You just collected 1 punch.



Get your FREE game with just 5 more punches!

- > [Continue Shopping](#)
- > [Visit Our Help Pages](#)

[Privacy Policy](#) | [Terms of Service](#) | [Cookie Policy](#)

Your Receipt

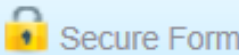
Order # 221291025 placed on 10/01/14 for a total of **\$ 7.65**.
We emailed your receipt to: **perkinscoie1201seattle@gmail.com**

[Print Receipt](#)

Billing Address	Payment method
Perkins Coie 1201 Third Avenue 4900 Seattle WA 98101 US	Visa [REDACTED]


	IGT Slots Wild Wolf	\$ 9.99
	Game Club Price	\$ 6.99
<hr/>		
	Big Fish Game Club Membership	FREE *
	Save 30% or more on this purchase and get member perks free for 1 month. No commitment, cancel online any time. *	

Subtotal: \$ 6.99
Tax: \$ 0.66
Total: \$ 7.65 USD



Perkins's Big Fish Game Club



 You have **0** Game Club credit(s) available

Want More Credits?

1 ▾

 **Buy Now**

Need an easy gift idea?

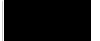
Use a Game Club credit to buy a gift certificate.

 **Start Gifting**

Account Summary

Next billing date: 11/01/14

Billing amount: \$ 6.99 USD [\(Edit\)](#)

Paying with: Visa -  [\(Edit\)](#)

Email: perkinscoie1201seattle@gmail.com [\(Edit\)](#)



Stay an active Game Club member for 1 continuous year and you'll get your very own plush Felix the Fish. [Learn More](#)

 **Cancel My Membership**

Customer Support

Have questions about Game Club?

[Read the Game Club FAQs](#)



Exclusive Access

Tomorrow's Game Today! 



Rush Hour! Gas Station

Daily Deal 



Zombie Solitaire
Only \$ 2.99 USD!

Game Club News

Our Game Club Terms of Service has been updated as of September 8, 2011.

Want detailed information about your Game Club membership? [Read the Terms of Service.](#)

Big Fish Game Club Account Activity

	Issue Date	Product	Status	Coupon Code
▾	10/01/14	Big Fish Game Club Membership	Active	



Welcome to Big Fish Game Club

Here's everything you need to get started with your free trial:

Take advantage of your Game Club benefits now!

Check out these great Game Club benefits:

Save 30% or more on every game.



Find Games You'll

Love[bigfishgames.com]



Get Game Club credits to redeem for games. Learn about

credits[bigfishgames.com]

Get Daily Deals for just \$2.99. See



what's on sale

today[bigfishgames.com]



Save up to 30% when you purchase in-game items



Earn free games with the Monthly Punch Card



Play new games early with Tomorrow's Game Today!®

Membership Details

Your free trial is good through:

11/01/14

On that date, you'll get your first Game Club credit to redeem for a game and your membership will continue with the following terms:

Monthly billing amount:

\$ 6.99

Renewal period:

1 month

You can cancel your free trial membership from your My Account page any time before your free trial ends and you won't be charged. If you cancel your membership after your free trial ends, your membership will end at the end of your billing period and Big Fish will not refund any membership fees.

Have questions about Game Club?

► We're here to help[bigfishgames.com]